

## Update: Michigan Circuit Court Benchbook

### CHAPTER 4

#### Criminal Proceedings

#### Part III—Discovery and Required Notices (MCR Subchapter 6.200)

#### 4.26 Discovery

##### B. Scope of Discovery

Insert the following text after the second paragraph in this subsection near the bottom of page 362 :

A tacit agreement between the prosecution and a witness concerning potential or actual leniency related to the witness's criminal conduct is favorable evidence subject to disclosure under *Brady v Maryland*, 373 US 83 (1963). *Bell v Bell*, \_\_\_ F3d \_\_\_, \_\_\_ (CA 6, 2006).

## CHAPTER 4

### Criminal Proceedings

#### Part V—Trials (MCR Subchapter 6.400)

#### 4.48 Jury Instructions

##### A. Generally

Insert the following text on page 431 after the first paragraph in this subsection:

See also *People v Anstey*, \_\_\_ Mich \_\_\_, \_\_\_ (2006), where the Court discusses in detail “[a] court’s inherent authority to instruct the jury on the law applicable to the case and the discretionary power to comment on the evidence.” In *Anstey*, the Court indicated that a jury instruction may be appropriate in cases where a defendant is deprived of a statutory right, and the statute itself does not provide a remedy and does not prohibit such an instruction. *Id.* at \_\_\_.